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Nos. 86-1380 and 1424

In the Supreme Court of the United States

OCTOBER TERM, 1986

ARKANSAS PUBLIC SERVICE COMMISSION, ET AL.,
PETITIONERS

v.

FEDERAL ENERGY REGULATORY COMMISSION

ARKANSAS POWER & LIGHT COMPANY, PETITIONER

v.

FEDERAL ENERGY REGULATORY COMMISSION, ET AL.

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE FEDERAL ENERGY REGULATORY COMMISSION

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The decision below was issued by the United States Court of Appeals for the District of Columbia Circuit on January 6, 1987, under the name *Mississippi Industries* v. *FERC* (86-1380 Pet. App. 1a-96a). The court of appeals consolidated several challenges to earlier orders of the Commission, and upheld those orders in its decision. The petition for a writ of certiorari in No. 86-1380 was filed on February 20, 1987, and the petition for a writ of certiorari in No. 86-1424 was filed on March 4, 1987. Also on February 20, three petitions for rehearing and suggestions for rehearing *en banc* were filed in the court of appeals by other parties to the proceedings below. The court of appeals has not yet acted on those petitions. Under Rule 20.4 of the Rules of this Court, "the time for filing a petition

for writ of certiorari for all parties * * * runs from the date of the denial of rehearing or of the entry of a subsequent judgment entered on the rehearing."

In these circumstances, we suggest that the Court defer disposition of the petitions for a writ of certiorari pending action by the court of appeals on rehearing. We will, of course, file a further response as appropriate after the court of appeals acts with respect to the rehearing petitions.

Respectfully submitted.

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Solicitor General

MARCH 1987

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